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NEIFELD IP LAW, P.C.
2001 Jefferson Davis Highway
Suite 1001, Crystal Plaza 1
Arlington, VA 22202

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In re Application of:
Braddock
Serial No.: 09/636,484
Filed: August 10, 2000
Attorney Docket No.: **OSEM-DB3**

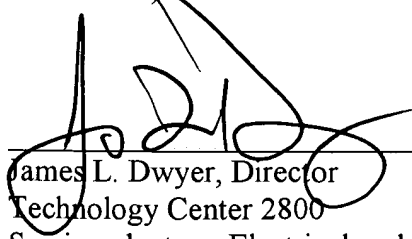
DECISION ON PETITION

This is a decision in response to the communication filed March 3, 2003. The communication has been treated as a petition under 37 C.F.R. § 1.144, requesting reconsideration of the restriction requirement established in the Office action mailed July 15, 2002, and made final in the subsequent action mailed January 30, 2003.

The petition is **GRANTED**.

Petitioner asserts that "independent method claim [53 sic] is identical to examined structure claim 39, except for step recitation of 'providing' or depositing' of the otherwise identical elements recited in claim 39" (emphasis petitioner). A comparison of independent device claim 39 and independent method claim 53 reveals that the language of these two claims is consistent with petitioner's assertion. Therefore, as stated by the petitioner, "the examiner has failed to show that the withdrawn claims are independent and distinct." Hence, the restriction requirement is withdrawn, and claim 53, as well as dependent claims 54-55, will be rejoined, and treated consistent with claims 39-52. Note that claims 39-52 were indicated as being allowable in the Office action mailed July 15, 2002.

The application is being forwarded to the examiner for consideration of the appeal brief filed October 28, 2003.


James L. Dwyer, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components